

General Services Administration

§ 105-55.020

(b) GSA is authorized to use mailing addresses obtained under paragraph (a) of this section to enforce collection of a delinquent debt and may disclose such mailing addresses to other agencies and to collection agencies for collection purposes.

§ 105-55.018 Exemptions.

(a) The preceding sections of this part, to the extent they reflect remedies or procedures prescribed by the Debt Collection Act of 1982 and the Debt Collection Improvement Act of 1996, such as administrative offset, use of credit bureaus, contracting for collection agencies, and interest and related charges, do not apply to debts arising under, or payments made under, the Internal Revenue Code of 1986, as amended (26 U.S.C. 1 *et seq.*); the Social Security Act (42 U.S.C. 301 *et seq.*), except to the extent provided under 42 U.S.C. 404 and 31 U.S.C. 3716(c); or the tariff laws of the United States. These remedies and procedures, however, may be authorized with respect to debts that are exempt from the Debt Collection Act of 1982 and the Debt Collection Improvement Act of 1996, to the extent they are authorized under some other statute or the common law.

(b) Claims arising from the audit of transportation accounts pursuant to 31 U.S.C. 3726 will be determined, collected, compromised, terminated or settled in accordance with regulation published under the authority of 31 U.S.C. 3726 (see 41 CFR part 101-41, administered by the Director, Office of Transportation Audits) and are otherwise exempted from this part.

§ 105-55.019 Compromise of claims.

(a) The standards set forth in this section apply to the compromise of debts pursuant to 31 U.S.C. 3711. The General Services Administration (GSA) may exercise such compromise authority for debts arising out of activities of, or referred or transferred for collection services to, the Agency when the amount of the debt then due, exclusive of interest, penalties, and administrative costs, does not exceed \$100,000 or any higher amount authorized by the Attorney General. The Administrator may designate other GSA officials to exercise the authorities in this section.

(b) Unless otherwise provided by law, when the principal balance of a debt, exclusive of interest, penalties, and administrative costs, exceeds \$100,000 or any higher amount authorized by the Attorney General, the authority to accept the compromise rests with the Department of Justice. GSA will evaluate the compromise offer, using the factors set forth in § 105-55.020. If an offer to compromise any debt in excess of \$100,000 is acceptable to the Agency, GSA will refer the debt to the Civil Division or other appropriate litigating division in the Department of Justice using a Claims Collection Litigation Report. The referral will include appropriate financial information and a recommendation for the acceptance of the compromise offer. Justice Department approval is not required if GSA rejects a compromise offer.

§ 105-55.020 Bases for compromise.

(a) The General Services Administration (GSA) may compromise a debt if the full amount cannot be collected because—

(1) The debtor is unable to pay the full amount in a reasonable time, as verified through credit reports or other financial information.

(2) GSA is unable to collect the debt in full within a reasonable time by enforced collection proceedings.

(3) The cost of collecting the debt does not justify the enforced collection of the full amount.

(4) There is significant doubt concerning the Government's ability to prove its case in court.

(b) In determining the debtor's inability to pay, GSA will consider relevant factors such as the following:

(1) Age and health of the debtor.

(2) Present and potential income.

(3) Inheritance prospects.

(4) The possibility that assets have been concealed or improperly transferred by the debtor.

(5) The availability of assets or income that may be realized by enforced collection proceedings.

(c) GSA will verify the debtor's claim of inability to pay by using a credit report and other financial information as provided in paragraph (g) of this section. GSA will consider the applicable exemptions available to the debtor

under State and Federal law in determining the Government's ability to enforce collection. GSA also may consider uncertainty as to the price that collateral or other property will bring at a forced sale in determining the Government's ability to enforce collection. A compromise effected under this section will be for an amount that bears a reasonable relation to the amount that can be recovered by enforced collection procedures, with regard to the exemptions available to the debtor and the time that collection will take.

(d) If there is significant doubt concerning the Government's ability to prove its case in court for the full amount claimed, either because of the legal issues involved or because of a bona fide dispute as to the facts, then the amount accepted in compromise of such cases will fairly reflect the probabilities of successful prosecution to judgment, with due regard given to the availability of witnesses and other evidentiary support for the Government's claim. In determining the litigative risks involved, GSA will consider the probable amount of court costs and attorney fees pursuant to the Equal Access to Justice Act, 28 U.S.C. 2412 that may be imposed against the Government if it is unsuccessful in litigation.

(e) GSA may compromise a debt if the cost of collecting the debt does not justify the enforced collection of the full amount. The amount accepted in compromise in such cases may reflect an appropriate discount for the administrative and litigative costs of collection, with consideration given to the time it will take to effect collection. Collection costs may be a substantial factor in the settlement of small debts. In determining whether the cost of collection justifies enforced collection of the full amount, GSA will consider whether continued collection of the debt, regardless of cost, is necessary to further an enforcement principle, such as the Government's willingness to pursue aggressively defaulting and uncooperative debtors.

(f) GSA generally will not accept compromises payable in installments. This is not an advantageous form of compromise in terms of time and administrative expense. If, however, pay-

ment of a compromise in installments is necessary, GSA will obtain a legally enforceable written agreement providing that, in the event of default, the full original principal balance of the debt prior to compromise, less sums paid thereon, is reinstated. Whenever possible, GSA will obtain security for repayment in the manner set forth in § 105-55.015.

(g) To assess the merits of a compromise offer based in whole or in part on the debtor's inability to pay the full amount of a debt within a reasonable time, GSA may obtain a current financial statement from the debtor, executed under penalty of perjury, showing the debtor's assets, liabilities, income and expenses. GSA also may obtain credit reports or other financial information to assess compromise offers. GSA may use their own financial information form or may request suitable forms from the Department of Justice or the local United States Attorney's Office.

§ 105-55.021 Enforcement policy.

Pursuant to this section, the General Services Administration may compromise statutory penalties, forfeitures, or claims established as an aid to enforcement and to compel compliance, if the Agency's enforcement policy in terms of deterrence and securing compliance, present and future, will be adequately served by the Agency's acceptance of the sum to be agreed upon.

§ 105-55.022 Joint and several liability.

(a) When two or more debtors are jointly and severally liable, the General Services Administration (GSA) may pursue collection activity against all debtors, as appropriate. GSA will not attempt to allocate the burden of payment between the debtors but will proceed to liquidate the indebtedness as quickly as possible.

(b) GSA will ensure that a compromise agreement with one debtor does not release the Agency's claim against the remaining debtors. The amount of a compromise with one debtor will not be considered a precedent or binding in determining the amount that will be required from other debtors jointly and severally liable on the claim.